

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,**

Plaintiff,

v.

DANIEL C. USTIAN,

Defendant.

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Case No. 16-cv-03885

Hon. Sara L. Ellis

VERDICT FORM

Securities and Exchange Commission v. Ustian,
16-cv-3885

VERDICT FORM

Claim I – Section 10(b) of the Exchange Act and Rule 10b-5

1. With regard to Claim I, we the jury find in favor of:

Plaintiff SEC: _____ Defendant Ustian: _____

Claim II – Aiding and Abetting Violations of Section 10(b) of the Exchange Act and Rule 10b-5

2. With regard to Claim II, we the jury find in favor of:

Plaintiff SEC: _____ Defendant Ustian: _____

Claim III – Section 17(a) of the Securities Act

3. With regard to Claim III, we the jury find in favor of:

Plaintiff SEC: _____ Defendant Ustian: _____

Claim IV – Aiding and Abetting Violations of Section 17(a) of the Securities Act

4. With regard to Claim IV, we the jury find in favor of:

Plaintiff SEC: _____ Defendant Ustian: _____

Claim V – Rule 13a-14 under the Exchange Act

5. With regard to Claim V, we the jury find in favor of:

Plaintiff SEC: _____ Defendant Ustian: _____

Claim VI – Control Person Liability under Section 20(a) of the Exchange Act

6. With regard to Claim VI, we the jury find in favor of:

Plaintiff SEC: _____ Defendant Ustian: _____¹

USTIAN OBJECTION: The Securities and Exchange Commission's ("SEC") proposed Jury Verdict Form is not suited for a complex securities case in which the SEC has alleged violations of Exchange Act Section 10(b) and Rule 10b-5 based on eleven (11) materially misleading statements or omissions and scheme liability, aiding and abetting liability, control person liability, and violations of 17(a) of the Securities Act. The Jury Verdict Form proposed by the SEC is prejudicial to Mr. Ustian because it allows the jury to reach a verdict of liability without unanimously deciding what alleged misconduct constitutes a violation. The Jury Verdict Form proposed by Mr. Ustian, however, poses no such prejudice to the SEC as it is the SEC's burden to prove, by a preponderance of the evidence, that Mr. Ustian's conduct violated every element of every claim alleged in the Amended Complaint. In support of his Proposed Jury Verdict Form, Mr. Ustian attaches five (5) Jury Verdict Forms from other securities cases (including cases that, like this case, involve Rule 10b-5 allegations of multiple alleged misstatements, among other charges) that demonstrate the validity of Mr. Ustian's approach.

¹ Modeled after *SEC v. Ferrone, et al.*, 11-cv-05223 (N.D. Ill. 2016) (Verdict Form, Dkt. #272).